

Senate Bill 244

By: Senators Unterman of the 45th, Thomas of the 54th and Goggans of the 7th

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 37 and various other titles of the Official Code of Georgia Annotated,
2 relating to mental health and other matters, so as to revise certain provisions relating to the
3 Department of Behavioral Health and Developmental Disabilities and mental incompetency;
4 to provide for service of notice against the department; to delete an obsolete provision
5 relating to the arrest of persons with contagious diseases; to revise certain provisions relating
6 to conviction data for employment purposes; to delete a Code section relating to hearing
7 rights for revoked or suspended licenses, permits, or certificates; to correct a cross-reference
8 relating to a mental health law; to provide for additional members of the Behavioral Health
9 Coordinating Council; to revise a provision relating to the duties and functions of regional
10 planning boards; to provide for continuances in court for board members attending meetings;
11 to revise provisions relating to disposition of a deprived child; to provide conditions for the
12 placement of a child following a termination order; to revise and add definitions relating to
13 proceedings upon plea of mental incompetency to stand trial; to provide for certain children
14 found incompetent to stand trial; to provide that certain training relating to child abuse is
15 conducted by the Office of the Child Advocate for the Protection of Children; to provide for
16 educational services for children in the physical custody of the department; to provide for
17 input by the department in pilot projects to address at-risk students; to provide for medical
18 scholarships for applicants practicing in hospitals or facilities operated by or under the
19 jurisdiction of the department; to provide that mental health records may be maintained in
20 electronic format; to provide for liability coverage for nonprofit agencies and their employees
21 who have contracted with the department; to provide that the commissioner of behavioral
22 health and developmental disabilities is a member of the Purchasing Advisory Council; to
23 provide that the commissioner of behavioral health and developmental disabilities is a
24 member of the State Use Council; to provide that there shall be a privilege to refuse to
25 disclose certain information related to certain research conducted by the department; to
26 amend an Act approved May 6, 2008 (Ga. L. 2008, p. 133), relating to the office of disability
27 services ombudsman; to provide for related matters; to repeal conflicting laws; and for other
28 purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 37 of the Official Code of Georgia Annotated, relating to mental health, is amended by adding a new Code section to Chapter 1, relating to general provisions, to read as follows:

"37-1-6.

When any action is brought against the department, the board, the commissioner, or any employee or agent thereof or when any action is brought in which the department could be held responsible for damages awarded in such action, it shall be the duty of the plaintiff to provide for service of notice of the pendency of such action by providing for service of a second original process, issued from the court in which the action is filed, upon the commissioner personally or upon a person designated by the commissioner in writing to serve as agent for the acceptance of such service of process. The service of process in such action shall not be perfected until such second original process has been served as provided in this Code section. The provisions of this Code section shall be cumulative of any other requirements imposed by law for the service of process or notice."

SECTION 2.

Said title is further amended by revising paragraph (4) of subsection (a) of Code Section 37-1-21, relating to institutional powers and duties, as follows:

~~"(4) To appoint police of such facilities, institutions, or programs who are authorized, while on the grounds or in the buildings of the respective facilities, institutions, or programs to make arrests with the same authority, power, privilege, and duties as the sheriffs of the respective counties in which such facilities, institutions, or programs are situated. If because of the contagious or infectious nature of the disease of persons arrested facilities are not available for their detention, such police shall be authorized to confine such persons within the respective facilities, institutions, or programs pending trial as provided in other cases. After trial and conviction of any such person, he or she shall be sentenced to serve his or her term of sentence in the secured ward of the facility, institution, or program; and"~~

SECTION 3.

Said title is further amended by revising Code Section 37-1-28, relating to conviction data for employment purposes for the Department of Behavioral Health and Developmental Disabilities, as follows:

61 "37-1-28.

62 (a) As used in this Code section, the term 'conviction data' means a record of a finding or
63 verdict of guilty or a plea of guilty or a plea of nolo contendere with regard to any crime,
64 regardless of whether an appeal of the conviction has been sought.

65 (b) The department may receive from any law enforcement agency conviction data that is
66 relevant to a person whom the department; or its contractors; ~~or a district or county health~~
67 ~~agency~~ is considering as a final selectee for employment in a position the duties of which
68 involve direct care, treatment, custodial responsibilities, or any combination thereof for its
69 clients. The department may also receive conviction data which is relevant to a person
70 whom the department; or its contractors; ~~or a district or county health~~ ~~agency~~ is considering
71 as a final selectee for employment in a position if, in the judgment of the employer, a final
72 employment decision regarding the selectee can only be made by a review of conviction
73 data in relation to the particular duties of the position and the security and safety of clients,
74 the general public, or other employees.

75 (c) The department shall establish a uniform method of obtaining conviction data under
76 subsection (a) of this Code section which shall be applicable to the department and its
77 contractors. Such uniform method shall require the submission to the Georgia Crime
78 Information Center of fingerprints and the records search fee in accordance with Code
79 Section 35-3-35. Upon receipt thereof, the Georgia Crime Information Center shall
80 promptly transmit fingerprints to the Federal Bureau of Investigation for a search of bureau
81 records and an appropriate report and shall promptly conduct a search of its own records
82 and records to which it has access. After receiving the fingerprints and fee, the Georgia
83 Crime Information Center shall notify the department in writing of any derogatory finding,
84 including, but not limited to, any conviction data regarding the fingerprint records check
85 or if there is no such finding.

86 (d) All conviction data received shall be for the exclusive purpose of making employment
87 decisions or decisions concerning individuals in the care of the department and shall be
88 privileged and shall not be released or otherwise disclosed to any other person or agency.
89 Immediately following the employment decisions or upon receipt of the conviction data,
90 all such conviction data collected by the department or its agent shall be maintained by the
91 department or agent pursuant to laws regarding and the rules or regulations of the Federal
92 Bureau of Investigation and the Georgia Crime Information Center, as is applicable.
93 Penalties for the unauthorized release or disclosure of any conviction data shall be as
94 prescribed pursuant to laws regarding and rules or regulations of the Federal Bureau of
95 Investigation and the Georgia Crime Information Center, as is applicable.

96 (e) The department may promulgate written rules and regulations to implement the
97 provisions of this Code section.

~~(f) The department may receive from any law enforcement agency criminal history information, including arrest and conviction data, and any and all other information which it may be provided pursuant to state or federal law which is relevant to any person in the care of the department. The department shall establish a uniform method of obtaining criminal history information under this subsection. Such method shall require the submission to the Georgia Crime Information Center of fingerprints together with any required records search fee in accordance with Code Section 35-3-35. Upon receipt thereof, the Georgia Crime Information Center shall promptly transmit the fingerprints submitted by the department to the Federal Bureau of Investigation for a search of bureau records and an appropriate report and shall promptly conduct a search of its own records and records to which it has access. Such method shall also permit the submission of the names alone of such persons to the proper law enforcement agency for a name based check of such person's criminal history information as maintained by the Georgia Crime Information Center and the Federal Bureau of Investigation. In such circumstances, the department shall submit fingerprints of those persons together with any required records search fee, to the Federal Bureau of Investigation within 15 calendar days of the date of the name based check on that person. The fingerprints shall be forwarded to the Federal Bureau of Investigation through the Georgia Crime Information Center in accordance with Code Section 35-3-35. Following the submission of such fingerprints, the department may receive the criminal history information, including arrest and conviction data, relevant to such person.~~

~~(g)~~(f) The department shall be authorized to conduct a name or descriptor based check of any person's criminal history information, including arrest and conviction data, and other information from the Georgia Crime Information Center regarding any adult person who provides care or is in contact with persons under the care of the department without the consent of such person and without fingerprint comparison to the fullest extent permissible by federal and state law."

SECTION 4.

Said title is further amended by revising Code Section 37-1-50, relating to necessity of hearing, powers of hearing examiner, and qualification, as follows:

"37-1-50.

~~(a) No license, permit, or certificate or other similar right shall be revoked or suspended without opportunity for a hearing as provided in Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' Any such hearing or appeal related thereto shall be conducted in accordance with such Act.~~

(b) ~~The department is authorized and empowered to employ and appoint hearing examiners to conduct hearings, issue compulsory process, administer oaths, and submit their findings and recommendations to the appointing agency; provided, however, that any such examiner shall be a member of the State Bar of Georgia in good standing. Reserved."~~

SECTION 5.

Said title is further amended by revising paragraph (2) of Code Section 37-1-70, relating to definitions relative to inspection warrants, as follows:

"(2) 'Mental health law' means Code Sections 37-3-7, 37-3-8, and ~~37-4-4~~ 37-4-7, Chapter 6 of this title, and any rule or regulation duly promulgated thereunder."

SECTION 6.

Said title is further amended by revising subsection (a) of Code Section 37-2-4, relating to the Behavioral Health Coordinating Council, as follows:

"(a) There is created the Behavioral Health Coordinating Council. The council shall consist of the commissioner of behavioral health and developmental disabilities; the commissioner of community health; the commissioner of human services; the commissioner of juvenile justice; the commissioner of corrections; the commissioner of community affairs; the Commissioner of Labor; the State School Superintendent; the chairperson of the State Board of Pardons and Paroles; the ombudsman appointed pursuant to Code Section 37-2-32; an adult consumer of public behavioral health services, appointed by the Governor; a family member of a consumer of public behavioral health services, appointed by the Governor; a parent of a child receiving public behavioral health services, appointed by the Governor; a member of the House of Representatives, appointed by the Speaker of the House of Representatives; and a member of the Senate, appointed by the Lieutenant Governor."

SECTION 7.

Said title is further amended by revising paragraph (1) of subsection (a) of Code Section 37-2-5.2, relating to the duties and functions of regional planning boards, as follows:

"(1) To prepare, in consultation with consumers and families, community programs, hospitals, other public and private providers, its regional planning board, and appropriate advisory and advocacy groups, an annual plan ~~for the funding and provision of all identifying the needs and priorities for~~ disability services in the region. The plan shall be submitted to the department at a time and in the manner specified by the department so as to ensure that the plan ~~is a basis for~~ informs the annual appropriations request;"

SECTION 8.

Code Section 37-3-1 of the Official Code of Georgia Annotated, relating to definitions relative to the examination and treatment for mental illness, is amended by revising paragraph (16.1) as follows:

"(16.1) 'Traumatic brain injury' means a traumatic insult to the brain and its related parts resulting in organic damage thereto which may cause physical, intellectual, emotional, social, or vocational changes in a person. It shall also be recognized that a person having a traumatic brain injury may have organic damage or physical or social disorders, but for the purposes of this chapter, traumatic brain injury shall not be considered mental illness ~~as defined in paragraph (11) of this Code section.~~"

SECTION 9.

Code Section 9-10-152 of the Official Code of Georgia Annotated, relating to grounds for continuance due to attendance at meeting of Board of Human Services, is amended as follows:

"9-10-152.

Should any member of the Board of Human Services or the Board of Behavioral Health and Developmental Disabilities be engaged, at the time of any meeting of the board, as counsel or party in any case pending in the courts of this state and should the case be called for trial during the regular session of the board, the absence of the member to attend the session shall be good ground for a postponement or a continuance of the case until the session of the board has come to an end."

SECTION 10.

Code Section 15-11-55 of the Official Code of Georgia Annotated, relating to disposition of a deprived child, is amended by revising subparagraphs (2)(B) and (2)(C) of subsection (a) as follows:

"(B) Except for dispositions pursuant to paragraph (1) of subsection (a) of Code Section 15-11-66 and Code Section 15-11-67, ~~before transferring temporary legal custody in an order of disposition under this paragraph a reasonably diligent search for~~ within 30 days after the removal of a child from the custody of the parent or parents of the child, the Department of Human Services shall exercise due diligence to identify a parent or relative of the child or other persons who have demonstrated an ongoing commitment to the child ~~shall be conducted by the court and the Department of Human Services. Such search shall be completed within 90 days from the date on which the child was removed from the home.~~ All identified adult relatives of the child, subject to exceptions due to family or domestic violence, shall be provided with notice:

- (i) Specifying that the child has been or is being removed from parental custody;
- (ii) Explaining the options the relative has to participate in the care and placement of the child and any options that may be lost by failing to respond to the notice;
- (iii) Describing the process for becoming an approved foster family home and the additional services and supports available for children placed in approved foster homes; and
- (iv) Describing any financial assistance for which the relative may be eligible.

(C) The results of such search and notification shall be documented in writing and filed with the court at by the time of the first review. During such ~~90~~ 30 day period, the court may order that the child ~~may~~ be placed in the temporary legal custody of the Department of Human Services or any other appropriate entity or person."

SECTION 11.

Code Section 15-11-103 of the Official Code of Georgia Annotated, relating to placement of child following termination order, is amended by revising subsection (a) as follows:

~~"(a)(1) If, upon the entering of an order terminating the parental rights of a parent, there is no parent having parental rights, the court shall first attempt to place the child with a person related to the child by blood or marriage or with a member of the child's extended family if such a person is willing and, after study by the probation officer or other person or agency designated by the court, is found by the court to be qualified to receive and care for the child, if the court determines such placement is the most appropriate for and in the best interest of the child. A placement effected under this paragraph shall be conditioned upon the family member who is given permanent custody or who is granted an adoption of the child agreeing to abide by the terms and conditions of the order of the court.~~

~~(2) If no placement of the child is effected under paragraph (1) of this subsection, the court may commit the child to the custody of the Department of Human Services or to a licensed child-placing agency willing to accept custody for the purpose of placing the child for adoption, if the court determines such placement is the most appropriate for and in the best interest of the child.~~

~~(3) If no placement of the child is effected under paragraph (1) or (2) of this subsection, the court may commit the child to a suitable individual on the condition that the person becomes the guardian of the person of the child pursuant to the court's authority under Code Section 15-11-30.1, if the court determines such placement is the most appropriate for and in the best interest of the child.~~

~~(4) If no placement of the child is effected under paragraph (1), (2), or (3) of this subsection, the court may commit the child to the custody of the Department of Human Services or to a licensed child-placing agency willing to accept custody for the purpose~~

of placing the child in a foster home, if the court determines such placement is the most appropriate for and in the best interest of the child.

~~(5) If no placement of the child is effected under paragraph (1), (2), (3), or (4) of this subsection, the court may commit the child to the custody of an agency or organization authorized by law to receive and provide care for children which is operated in a manner that provides such care, guidance, and control as would be provided in a family home as defined in the court's order, if the court determines that such placement is the most appropriate for and in the best interest of the child.~~

~~(6) If no placement of the child is effected under paragraph (1), (2), (3), (4), or (5) of this subsection, the court may take other suitable measures for the care and welfare of the child.~~ Upon the entering of an order terminating the parental rights of a parent, a placement may be made only if the court finds that such placement is in the best interest of the child and in accordance with the child's court approved permanency plan created pursuant to Code Section 15-11-58. In determining which placement is in the child's best interest, the court shall enter findings of fact reflecting its consideration of the following:

(1) The child's need for a placement that offers the greatest degree of legal permanence and security;

(2) The least disruptive placement alternative for the child;

(3) The child's sense of attachment and need for continuity of relationships; and

(4) Any other factors the court deems relevant to its determination."

SECTION 12.

Code Section 17-7-130 of the Official Code of Georgia Annotated, relating to proceedings upon plea of mental incompetency to stand trial, is amended by revising subsections (a) and (b), paragraph (1) of subsection (d), and subparagraph (d)(2)(B) as follows:

"(a) As used in this Code section, the term:

(1) 'Child' means a person under the jurisdiction of the superior court pursuant to Code Section 15-11-28.

(2) 'Committing court' means the court which has jurisdiction over the criminal charges against the defendant.

(3) 'Developmental disability' shall have the same meaning as set forth in paragraph (8) of Code Section 37-1-1.

~~(2)(4)~~ 'Inpatient' shall have the same meaning as in paragraph (9.1) of Code Section 37-3-1; provided, however, that as applied to a child for purposes of this Code section, the term shall mean a child who is mentally ill or has a developmental disability and is in need of involuntary placement.

~~(3)(5)~~ 'Nonviolent offense' means any offense other than:

- (A)(i) Murder;
- (ii) Rape;
- (iii) Aggravated sodomy;
- (iv) Armed robbery;
- (v) Aggravated assault;
- (vi) Hijacking of a motor vehicle or an aircraft;
- (vii) Aggravated battery;
- (viii) Aggravated sexual battery;
- (ix) Aggravated child molestation;
- (x) Aggravated stalking;
- (xi) Arson in the first degree and in the second degree;
- (xii) Stalking;
- (xiii) Fleeing and attempting to elude a police officer;
- (xiv) Any sexual offense against a minor; or
- (xv) Any offense which involves the use of a deadly weapon or destructive device;
- and

(B) Those felony offenses deemed by the committing court to involve an allegation of actual or potential physical harm to another person.

~~(4)~~(6) 'Outpatient' shall have the same meaning as in paragraph (12.1) of Code Section 37-3-1, provided that ~~the~~:

(A) As applied to a child for purposes of this Code section, the term shall mean a child who is mentally ill or has a developmental disability and is in need of involuntary placement; and

(B) The court determines that the defendant meets the criteria for release on bail or other pre-trial release pursuant to Code Section 17-6-1.

(b) Whenever a plea is filed that a defendant in a criminal case is mentally incompetent to stand trial, it shall be the duty of the court to cause the issue of the defendant's mental competency to stand trial to be tried first by a special jury. If the special jury finds the defendant mentally incompetent to stand trial, the court shall retain jurisdiction over the defendant but shall transfer the defendant to the Department of Behavioral Health and Developmental Disabilities and if the defendant is a child, the department shall be authorized to place such defendant in a secure hospital or secure community facility designated by the department; provided, however, that if the defendant is charged with a misdemeanor offense other than as included in subparagraph ~~(a)(3)(A)~~ (a)(5)(A) of this Code section or a nonviolent offense, the court may, in its discretion, retain jurisdiction over the defendant, and may allow evaluation to be done on an outpatient basis by the Department of Behavioral Health and Developmental Disabilities. If the court allows

outpatient evaluation and the defendant is in custody, the court may release the defendant in accordance with the provisions of Code Section 17-6-1, et seq."

"(1) ~~Refer~~ If the defendant is not a child, refer the case to the probate court for commitment proceedings pursuant to Chapter 3 or 4 of Title 37, if appropriate and if the charges are dismissed for any reason; or"

"(B) If the defendant is found to meet the criteria for involuntary civil commitment as an inpatient or outpatient, the judge may issue an order committing the defendant; provided, however, that if the defendant is a child, the Department of Behavioral Health and Developmental Disabilities shall be authorized to place such defendant in a secure hospital or secure community facility designated by the department.

(i) If the defendant so committed is charged with a misdemeanor offense, the committing court may civilly commit the defendant for a period not to exceed one year. Following the commitment period, the charges against the defendant shall be dismissed by operation of law.

(ii) A defendant who is so committed and is charged with a felony may only be released from that inpatient or outpatient commitment by order of the committing court in accordance with the procedures specified in paragraphs (1) through (3) of subsection (f) of Code Section 17-7-131 except that the burden of proof in such release hearing shall be on the state and if the committed person cannot afford a physician or licensed clinical psychologist of the defendant's choice, the person may petition the court and the court may order such cost to be paid by the county."

SECTION 13.

Code Section 17-8-30 of the Official Code of Georgia Annotated, relating to grounds for continuances for party or party's counsel in attendance at meeting of Board of Human Services, is amended as follows:

"17-8-30.

Should any member of the Board of Human Services or the Board of Behavioral Health and Developmental Disabilities be engaged at the time of any meeting of the board as counsel or party in any case pending in the courts of this state and should the case be called for trial during the regular session of the board, ~~his~~ the absence of the member to attend the session shall be good ground for a postponement or a continuance of the case until the session of the board has ended."

SECTION 14.

Code Section 19-15-2 of the Official Code of Georgia Annotated, relating to child abuse protocol committee, is amended by revising subsection (j) as follows:

"(j) By July 1, 2001, members of each protocol committee shall receive appropriate training. As new members are appointed, they will also receive training within 12 months after their appointment. The ~~Department of Human Services~~ Office of the Child Advocate for the Protection of Children shall provide such training."

SECTION 15.

Code Section 20-2-133 of the Official Code of Georgia Annotated, relating to free public instruction in elementary and secondary education, is amended as follows:

"20-2-133.

(a) Admission to the instructional programs funded under this article shall be free to all eligible children and youth who enroll in such programs within the local school system in which they reside and to children as provided in subsection (b) of this Code section. Therefore, a local school system shall not charge resident students tuition or fees, nor shall such students be required to provide materials or equipment except for items specified by the State Board of Education, as a condition of enrollment or full participation in any instructional program. However, a local school system is authorized to charge nonresident students tuition or fees or a combination thereof; provided, however, that such charges to a student shall not exceed the average locally financed per student cost for the preceding year, excluding the local five mill share funds required pursuant to Code Section 20-2-164; provided, further, that no child in a placement operated by the Department of Human Services or the Department of Behavioral Health and Developmental Disabilities or for which payment is made by the Department of Juvenile Justice, ~~or~~ the Department of Human Services or any of its divisions, or the Department of Behavioral Health and Developmental Disabilities and no child who is in the physical or legal custody of the Department of Juvenile Justice, ~~or~~ under the care or physical or legal custody of the Department of Human Services or any of its divisions, or under the physical custody of the Department of Behavioral Health and Developmental Disabilities shall be charged tuition, fees, or a combination thereof. A local school system is further authorized to contract with a nonresident student's system of residence for payment of tuition. The amount of tuition paid directly by the system of residence shall be limited only by the terms of the contract between systems. Local units of administration shall provide textbooks or any other reading materials to each student enrolled in a class which has a course of study that requires the use of such materials by the students.

(b)(1) Any child, except a child in a youth development center as specifically provided in this paragraph, who is in the physical or legal custody of the Department of Juvenile Justice or the Department of Human Services, or in a placement operated by the Department of Human Services or the Department of Behavioral Health and

Developmental Disabilities, or in a facility or placement paid for by the Department of Juvenile Justice, ~~or~~ the Department of Human Services or any of its divisions, or the Department of Behavioral Health and Developmental Disabilities and who is physically present within the geographical area served by a local unit of administration for any length of time is eligible for enrollment in the educational programs of that local unit of administration; provided, however, that the child meets the age eligibility requirements established by this article. The local unit of administration of the school district in which such child is present shall be responsible for the provision of all educational programs, including special education and related services, at no charge as long as the child is physically present in the school district. A child will be considered in the physical or legal custody of the Department of Juvenile Justice or the Department of Human Services or any of its divisions if custody has been awarded either temporarily or permanently by court order or by voluntary agreement, or if the child has been admitted or placed according to an individualized treatment or service plan of the Department of Human Services. A child will be considered in a facility or placement paid for or operated by the Department of Behavioral Health and Developmental Disabilities if the child has been admitted or placed according to an individualized treatment or service plan of the Department of Behavioral Health and Developmental Disabilities. No child in a youth development center, regardless of his or her custody status, shall be eligible for enrollment in the educational programs of the local unit of administration of the school district in which that youth development center is located. No child or youth in the custody of the Department of Corrections or the Department of Juvenile Justice and confined in a facility as a result of a sentence imposed by a court shall be eligible for enrollment in the educational programs of the local unit of administration of the school district where such child or youth is being held.

(2) Except as otherwise provided in this Code section, placement in a facility by a parent or by another local unit of administration shall not create an obligation, financial or otherwise, on the part of the local unit of administration in which the facility is located to educate the child.

(3) For any child described in paragraph (1) of this subsection, the custodian of or placing agency for the child shall notify the appropriate local unit of administration at least five days in advance of the move, when possible, when the child is to be moved from one local unit of administration to another.

(4) When the custodian of or placing agency for any child notifies a local unit of administration, as provided in paragraph (3) of this subsection, that the child may become eligible for enrollment in the educational programs of a local unit of administration, such local unit of administration shall request the transfer of the educational records and

Individualized Education Programs (IEP's) and all education related evaluations, assessments, social histories, and observations of the child from the appropriate local unit of administration no later than ten days after receiving notification. Notwithstanding any other law to the contrary, the custodian of the records has the obligation to transfer these records and the local unit of administration has the right to receive, review, and utilize these records. Notwithstanding any other law to the contrary, upon the request of a local unit of administration responsible for providing educational services to a child described in paragraph (1) of this subsection, the Department of Juvenile Justice, the Department of Behavioral Health and Developmental Disabilities, or the Department of Human Services shall furnish to the local unit of administration all medical and educational records in the possession of the Department of Juvenile Justice, the Department of Behavioral Health and Developmental Disabilities, or the Department of Human Services pertaining to any such child, except where consent of a parent or legal guardian is required in order to authorize the release of any of such records, in which event the Department of Juvenile Justice, the Department of Behavioral Health and Developmental Disabilities, or the Department of Human Services shall obtain such consent from the parent or guardian prior to such release.

(5) Any local unit of administration which serves a child pursuant to paragraph (1) of this subsection shall receive in the form of annual grants in state funding for that child the difference between the actual state funds received for that child pursuant to Code Section 20-2-161 and the reasonable and necessary expenses incurred in educating that child, calculated pursuant to regulations adopted by the State Board of Education. Each local board of education shall be held harmless by the state from expending local funds for educating students pursuant to this Code section; provided, however, that this shall only apply to students who are unable to leave the facility in which they have been placed.

(6) Enrollment of an eligible child pursuant to this Code section shall be effectuated in accordance with rules and regulations adopted by the State Board of Education.

(7) The Department of Education, the Department of Human Services, the Department of Juvenile Justice, the Department of Behavioral Health and Developmental Disabilities, and the local units of administration where Department of Education, Department of Juvenile Justice, Department of Behavioral Health and Developmental Disabilities, or Department of Human Services placements, facilities, or contract facilities are located shall jointly develop procedures binding on all agencies implementing the provisions of this Code section applicable to children and youth in the physical or legal custody of the Department of Juvenile Justice or under the care or physical or legal custody of the Department of Human Services or under the physical custody of the Department of Behavioral Health and Developmental Disabilities."

SECTION 16.

Code Section 20-2-250 of the Official Code of Georgia Annotated, relating to projects to improve effectiveness, is amended by revising subsection (d) as follows:

"(d)(1) In order to better address the needs of students at risk of failing to complete their education, the State Board of Education shall approve pilot projects that allow schools, clusters of schools, or school systems to decategorize funds received under Code Section 20-2-161. The state board shall appoint an interdisciplinary review panel consisting of students, parents, educators, and representatives from business, the community, ~~and the Department of Human Services,~~ and the Department of Behavioral Health and Developmental Disabilities to evaluate all submitted proposals and to submit appropriate recommendations to the state board.

(2) Pilot projects must meet the following criteria:

(A) Address the needs of at-risk students who meet two or more of the criteria in the definition of the at-risk student as approved by the State Board of Education;

(B) Develop a plan for such a pilot project using an interdisciplinary committee composed of students, parents, educators, and representatives from business, the community, the Department of Human Services, the Department of Behavioral Health and Developmental Disabilities, and others as appropriate;

(C) Ensure that the plan for the pilot project becomes a component of the local strategic plan;

(D) Provide for a program evaluation that specifies the goals of the program, the means to achieve those goals, the reasons for any decategorization or combining of program earnings to carry out those means, and objective and other criteria to be met which will determine the success or failure of the new programs;

(E) No funds may be expended for any program or service explicitly excluded from the full-time equivalent count in subsection (a) of Code Section 20-2-160, except that such funds will be expended in conformity with the requirements for expenditures of direct instructional costs under Code Section 20-2-167. Any local plan approved by the board to combine program earnings for the purpose of providing programs for at-risk students under this subsection must also conform with the expenditure controls under Code Section 20-2-167 as modified by the new program categories described in the local system's proposal to the board. In no event will the aggregate funds expended for direct instructional costs be a lower amount than would have been required under the original formula calculations and expenditure requirements; and

(F) No funds may be expended for transitional programs, such as transitional kindergarten or first grade.

(3) The state board shall give priority to proposed pilot projects that focus on interagency cooperation and the joint provision of services.

(4) All pilot projects shall be reviewed annually by the state board to ensure that they are meeting the goals and objectives outlined in their plan. Pilot projects that are no longer achieving their goals and objectives shall be discontinued by the state board.

(5) The pilot projects shall report annually to the Appropriations Committees of the House of Representatives and the Senate, the House Education Committee, and the Senate Education and Youth Committee."

SECTION 17.

Code Section 20-3-513 of the Official Code of Georgia Annotated, relating to determination of amount of medical scholarships by the State Medical Education Board, is amended as follows:

"20-3-513.

Students whose applications are approved shall receive a loan or scholarship in an amount to be determined by the State Medical Education Board to defray the tuition and other expenses of the applicant in an accredited four-year medical school in the United States which has received accreditation or provisional accreditation by the Liaison Committee on Medical Education of the American Medical Association or the Bureau of Professional Education of the American Osteopathic Association for a program in medical education designed to qualify the graduate for licensure by the Georgia Composite Medical Board. The loans and scholarships shall be paid in such manner as the State Medical Education Board shall determine and may be prorated so as to pay to the medical college or school to which any applicant is admitted such funds as are required by that college or school with the balance being paid directly to the applicant; all of which shall be under such terms and conditions as may be provided under rules and regulations of the State Medical Education Board. The loans or scholarships to be granted to each applicant shall be based upon the condition that the full amount of the loans or scholarships shall be repaid to the State of Georgia in services to be rendered by the applicant by practicing his or her profession in a State Medical Education Board approved rural county in Georgia of 35,000 population or less according to the United States decennial census of 1990 or any future such census or at any hospital or facility operated by or under the jurisdiction of the Department of Community Health or the Department of Behavioral Health and Developmental Disabilities or at any facility operated by or under the jurisdiction of the Department of Corrections or at any facility operated by or under the jurisdiction of the Department of Juvenile Justice. For each year of practicing his or her profession in such State Medical Education Board

526 approved location, the applicant shall receive credit for the amount of the scholarship
527 received during any one year in medical school, with the interest due on such amount."

528 **SECTION 18.**

529 Code Section 31-33-4 of the Official Code of Georgia Annotated, relating to mental health
530 records, is amended as follows:

531 "31-33-4.

532 The provisions of this chapter, except as otherwise provided in Code Sections 31-33-7 and
533 31-33-8, shall not apply to psychiatric, psychological, or other mental health records of a
534 patient."

535 **SECTION 19.**

536 Code Section 31-33-8 of the Official Code of Georgia Annotated, relating to electronic
537 records, is amended as follows:

538 "31-33-8.

539 (a) Notwithstanding any other provision of the law to the contrary, any provider may, in
540 its sole discretion, create, maintain, transmit, receive, and store records in an electronic
541 format within the meaning of Code Section 10-12-2 and may, in its sole discretion,
542 temporarily or permanently convert records into an electronic format.

543 (b) A provider shall not be required to maintain separate tangible copies of electronically
544 stored records.

545 (c) The other provisions of this chapter shall apply to electronic records to the same extent
546 as those provisions apply to tangible records.

547 (d) This Code section is subject to all applicable federal laws governing the security and
548 confidentiality of a patient's personal health information.

549 ~~(d)~~(e) A tangible copy of a record reproduced from an electronically stored record shall
550 be considered an original for purposes of providing copies to patients or other authorized
551 parties and for introduction of the records into evidence in administrative or court
552 proceedings.

553 ~~(e)~~(f) Except as provided otherwise under federal law, upon receiving a request for a copy
554 of a record from a patient or an authorized person under Code Section 31-33-3, a provider
555 shall provide copies of the record in either tangible or electronically stored form.

556 (g) Subsections (a), (b), (d) and (e) of this Code section shall apply to psychiatric,
557 psychological, or other mental health records of a patient."

SECTION 20.

Code Section 45-9-4 of the Official Code of Georgia Annotated, relating to the commissioner of administrative services to purchase insurance or indemnity contracts, is amended by revising subsection (g) as follows:

"(g) The policy of insurance provided for in this Code section may also provide liability coverage to nonprofit agencies and their employees, which agencies have contracted with the Department of Juvenile Justice, the Department of Transportation, the Department of Behavioral Health and Developmental Disabilities, or the Department of Human Services to furnish certain services; provided, however, that such liability coverage shall be limited to damages arising out of the authorized use of a state-owned vehicle or a vehicle funded pursuant to subsection (a) of Code Section 49-2-13.1 by an employee of such nonprofit agency during the course of such person's employment with such nonprofit agency and the cost of such insurance furnished to any such nonprofit agency and its employees shall be allocated to and paid by such agency before any coverage shall be effective. For the purpose of this Code section, 'nonprofit agency' means any nonprofit or charitable organization, association, corporation, partnership, or other entity registered pursuant to Section 501(c)(3) of the Internal Revenue Code."

SECTION 21.

Code Section 50-5-69 of the Official Code of Georgia Annotated, relating to purchases without competitive bidding, is amended by revising subsection (a) as follows:

"(a) If the needed supplies, materials, equipment, or service can reasonably be expected to be acquired for less than \$5,000.00 and is not available on state contracts or through statutorily required sources, the purchase may be effectuated without competitive bidding. The commissioner of administrative services may by rule and regulation authorize the various offices, agencies, departments, boards, bureaus, commissions, institutions, authorities, or other entities of the state to make purchases in their own behalf and may provide the circumstances and conditions under which such purchases may be effected. In order to assist and advise the commissioner of administrative services in making determinations to allow offices, agencies, departments, boards, bureaus, commissions, institutions, authorities, or other entities of the state to make purchases in their own behalf, there is created a Purchasing Advisory Council consisting of the executive director of the Georgia Technology Authority or his or her designee; the director of the Office of Planning and Budget or his or her designee; the chancellor of the University System of Georgia or his or her designee; the commissioner of technical and adult education or his or her designee; the commissioner of transportation or his or her designee; the Secretary of State or his or her designee; the commissioner of human services or his or her designee; the

commissioner of community health or his or her designee; the commissioner of behavioral health and developmental disabilities or his or her designee; and one member to be appointed by the Governor. The commissioner of administrative services shall promulgate the necessary rules and regulations governing meetings of such council and the method and manner in which such council will assist and advise the commissioner of administrative services."

SECTION 22.

Code Section 50-5-135 of the Official Code of Georgia Annotated, relating to the creation of the State Use Council, is amended by revising subsections (a) and (b) as follows:

"(a) There is created the State Use Council, hereafter referred to as the council. The council shall be composed of ~~15~~ 16 members as follows:

(1) The commissioner of administrative services or his or her designee;

(2) The commissioner of human services or his or her designee;

(2.1) The commissioner of behavioral health and developmental disabilities or his or her designee;

(3) The commissioner of community affairs or his or her designee;

(4) The commissioner of corrections or his or her designee;

(5) Five members appointed by the Governor who shall represent the business community of the state;

(6) Three members appointed by the Governor who shall represent a broad spectrum of persons with disabilities; and

(7) Three members appointed by the Governor who shall represent the interest of organizations representative of persons with disabilities.

(b) Initially, the ~~nine~~ eleven members appointed pursuant to paragraphs (5) through (7) in subsection (a) of this Code section shall serve staggered terms of office as follows: ~~three~~ four members for two years, ~~three~~ four members for three years, and three members for four years. Thereafter, each member shall serve for a term of four years. Such members shall serve until the appointment and qualification of their successors. The members appointed by the Governor shall be selected from the state at large but shall be representative of all of the geographic areas of the state."

SECTION 23.

Code Section 50-18-72 of the Official Code of Georgia Annotated, relating to when public disclosure under open records laws is not required, is amended by revising paragraph (2) of subsection (c) as follows:

"(2) All state officers and employees shall have a privilege to refuse to disclose the identity or personally identifiable information of any person participating in research on commercial, scientific, technical, medical, scholarly, or artistic issues conducted by the Department of Community Health, the Department of Behavioral Health and Developmental Disabilities, or a state institution of higher education whether sponsored by the institution alone or in conjunction with a governmental body or private entity. Personally identifiable information shall mean any information which if disclosed might reasonably reveal the identity of such person including but not limited to the person's name, address, and social security number. The identity of such informant shall not be admissible in evidence in any court of the state unless the court finds that the identity of the informant already has been disclosed otherwise."

SECTION 24.

An Act approved May 6, 2008 (Ga. L. 2008, p. 133), is amended by repealing Section 4 of such Act in its entirety.

SECTION 25.

All laws and parts of laws in conflict with this Act are repealed.